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Supreme Court, U.S.
FILED

05-218 AUG 11 2005

OFFICE OF THE CLERK

No. _____

In the Supreme Court of the United States

DOUG DRETKE, DIRECTOR,
TEXAS DEPARTMENT OF CRIMINAL JUSTICE,
INSTITUTIONAL DIVISION,
Petitioner,

v.

TONY RAY COLEMAN,
Respondent.

On Petition for Writ of Certiorari to the
United States Court of Appeals for the Fifth Circuit

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Whether the Court should resolve the circuit split concerning whether *Vitek v. Jones*, 445 U.S. 480 (1980), "clearly established" that an unadjudicated sex offender—a person whom state prison officials have reason to believe committed crimes of a sexual nature, but was not convicted thereof—has a liberty interest in not having his release on parole conditioned upon his participation in confidential sex-offender therapy.

2. Whether the Court should resolve the circuit split concerning whether a state prisoner's claim that his parole was revoked for his failure to abide by allegedly unconstitutional conditions of parole must be brought exclusively under the federal civil rights statute, 42 U.S.C. §1983, or instead may be brought under the federal habeas corpus statute, 28 U.S.C. §2254.

LIST OF PARTIES

Petitioner is Doug Dretke, Director of the Texas Department of Criminal Justice, Correctional Institutions Division.

Respondent is Tony Ray Coleman, a prisoner currently in the custody of the Texas Department of Criminal Justice.

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By expanding *Vitek v. Jones*, 445 U.S. 480 (1980), to dictate that unadjudicated sex offenders must receive a hearing before they may be required to attend sex-offender therapy as a condition of parole, a panel of the Fifth Circuit "has extended liberty interest protection to . . . sex offenders without Supreme Court imprimatur." *Coleman v. Dretke*, 409 F.3d 665, 670 (CA5 May 13, 2005) (Jones, J., dissenting from denial of reh'g en banc, joined by Jolly, Smith, Barksdale, Garza, DeMoss, and Clement, JJ.); Pet. App., at 24. The panel decision creates a split with the Ninth and Tenth Circuits over whether "clearly established" federal law recognizes any such liberty interest. Moreover, this case presents a circuit split as to whether a prisoner challenging allegedly unconstitutional conditions of parole must sue under 42 U.S.C. §1983, or may instead seek relief under the federal habeas statute, 28 U.S.C. §2254. The Court should grant the petition for a writ of certiorari to address these important and previously unaddressed issues of federal law.